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1 The following is a computer uncertified rough
 2 draft transcript of the deposition of DAVID GARZA taken
 3 on April 26, 2023.

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 5 be quoted in any pleading, motion, hearing, trial, or
 6 for any other purpose and may not be filed with any
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 18 spelling, an occasional court reporter's note, and/or
 19 nonsensical English word combinations. This rough draft
 20 transcript does not include any title, appearance,
 21 index, or reporter certification pages. Exhibits are
 22 not attached.

23 Thank you!

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1 THE VIDEOGRAPHER: Good morning. We are going on
 2 the record at 10:01 a.m. on April 26th, 2023.

3 Please note the microphones are sensitive and
 4 may pick up whispering and private conversations.
 5 Please mute your phones at this time.

6 Audio and video recording will continue to
 7 take place unless all parties agree to go off the record

8 This is media unit 1 of the video-recorded
 9 deposition of Dave Garza taken in the matter of Ecolab,
 10 et al. versus Anthony Ridley, et al.

11 The location of this deposition is being taken
 12 at the Renaissance Chicago O'Hare located at 8500 West
 13 Bryn Mawr Avenue, Chicago, Illinois.

14 My name is Nick Page, representing Veritext,
 15 I'm the videographer. The court reporter is Nadine
 16 Watts, also from the firm Veritext.

17 I'm not related to any parties in this action,
 18 nor am I financially interested in the outcome.

19 If there are any objections to the
 20 proceedings, place state them at the time of your
 21 appearance.

22 Counsel and all present, including remotely,
 23 will now state their appearances and affiliations for
 24 the record, beginning with the noticing attorney.

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1 MS. LUND: This is Juli Ann Lund from Williams &
 2 Connolly on behalf of the defendant ChemTreat
 3 Incorporated, and with me is my colleague Mark Lyon.

4 MR. POPE: Lance Pope from Patrick Beard Schulman &
 5 Jacoway attending remotely on behalf of defendant
 6 Anthony Ridley.

7 MR. WINSMAN: And this is Edward Winsman from the
 8 firm Fisher & Phillips on behalf of plaintiffs Nalco and

14 Q So if there's a Digital Guardian report that has
 15 data for 62 days, how would that be possible?

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16 A How do you mean?

17 Q Well, if the retention period of data in Digital
 18 Guardian is only 60 days at the time we're talking about
 19 in July of 2021, how could a Digital Guardian report
 20 created in July of 2021 have 62 days worth of data?

21 A The only way that could probably be is if they
 22 were to be -- they would pull data that may reside still
 23 within Digital Guardian logs. You know, outside -- I
 24 don't know how the data would come from that, from 62

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1 days. It would have to be the back end system. It
 2 would have to be within Digital Guardian where they --
 3 they would have had to do some more digging. I'm not
 4 sure how that would be for 62 days.

5 Q Because 62 days is not a standard period, right?

6 MR. WINSMAN: Objection to form, outside the scope,
 7 misstates testimony.

8 THE WITNESS: We primarily focus on -- you know,
 9 that's what I've been told, is 60 days.

10 MS. LUND: Q Is there any documentation that would
 11 reflect what the retention period was for Digital
 12 Guardian data in July of 2021?

13 A There are knowledge based articles that have
 14 been created for support teams that document the 60
 15 days.

16 Q And where are those articles located?

17 A Those articles are located on service now
 18 support tool. That's our help desk tool.

19 MS. LUND: Is that the document you were required to
 20 produce by April 19th that you haven't produced yet, the
 21 policy that was identified as a reference in the policy
 22 Ms. Semmler created?

23 MR. WINSMAN: Well, this is Mr. -- the deposition of
 24 the 30(b) (6) witness.

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1 MS. LUND: Q All right. I will just make a
 2 request on the record that we received this knowledge
 3 based article which I believe is the same document that
 4 the court ordered plaintiffs to produce as of April 19th
 5 and which we have not yet received.

6 So Mr. Garza, your testimony is that there are
 7 articles on service now, which that's an online
 8 resource, correct?

9 A That's correct.

10 Q That would document what the retention period
 11 was for the Digital Guardian data in July of 2021?

12 MR. WINSMAN: Objection to form, misstates
 13 testimony.

14 THE WITNESS: Those documents would instruct our
 15 analysts on what's available to them.

16 MS. LUND: Q And did you review those documents in
 17 preparation for your testimony today?

18 A I did not.

19 Q Did you speak to Ms. Semmler about what the data
 20 retention period is for Digital Guardian?

21 A We did cover that.

22 Q And did she tell you it was 60 days?

8 all started with the normal manager request to get
9 access to a terminated employee's data.
10 MS. LUND: Q So what manager made a request for
11 access to Mr. Ridley's data?
12 A I believe it was Ms. Mahre.
13 Q Ms. Mahre is a human resource manager, correct?
14 A That's correct.
15 Q Was Ms. Mahre Mr. Ridley's supervisor?
16 A Not that I know of, but it's not uncommon for HR
17 to make the request.
18 Q So why did Ms. Mahre make a request to get
19 access to Mr. Ridley's data?
20 MR. WINSMAN: Objection, outside the scope.
21 THE WITNESS: Other than just normal course of you
22 know terminated employee and requesting access to their
23 data, I'm not aware of a specific reason other than the
24 employee was gone and that's part of the process.

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1 MS. LUND: Q So is it your testimony that HR
2 routinely requests access to employees data when they're
3 terminated or when they leave the company?
4 MR. WINSMAN: Objection to form, misstates
5 testimony.
6 THE WITNESS: I couldn't say it's routine, but it's
7 not unheard of for that to be a request made by HR.
8 MS. LUND: Q So, Mr. Garza, you understand that
9 you are here today testifying on behalf of Ecolab,
10 correct?
11 A That's correct.
12 Q And you understand that your role is to give me
13 all of the information that Ecolab has about the topics
14 that you've been designated for, correct?
15 A That's correct.
16 Q And you understand that Ms. Mahre is an he can
17 employee, correct?
18 A I do understand that.
19 Q And you understand that Ms. Corona is an Ecolab
20 employee?
21 A That's correct.
22 Q So the actions they took and the reasons they
23 took those actions are information that Ecolab has and
24 that Ecolab could give me, correct?

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1 MR. WINSMAN: Objection. Mr. Garza has been
2 designated for specific topics, including, and we're
3 talking about topic number 6 right now, information
4 regarding Ridley's alleged misappropriation.
5 MS. LUND: Yes, and you will see 6A, the dates on
6 which you received information regarding Ridley's
7 alleged misappropriation, including any information that
8 led to Theresa Corona's request for review of Ridley's
9 systems.
10 We've already established that that request
11 for review of Ridley's systems occurred on or before
12 July 18th, 2021. And so I am now attempting to learn
13 what information it was that led to Theresa Corona's
14 request for review of Ridley's systems. And I believe
15 Mr. Garza's testimony is that he does not know.
16 Is that correct, Mr. Garza?

6 look at Exhibit 23, you'll see that Ms. Semmler
 7 indicates that this report, along with the underlying
 8 reports, including the Digital Guardian report, were all
 9 stored in a OneDrive folder that she maintained,
 10 correct?
 11 A Yes. Sorry, yes.
 12 Q Yes. So was that OneDrive folder of
 13 Ms. Semmler's put on legal hold in -- sorry, in July of
 14 2021?
 15 A I'm not aware of a legal hold being put on our
 16 collection of -- this repository that you speak of the,
 17 of the OneDrive, no.
 18 Q So as far as you know there has never been a
 19 legal hold put on the folder where Ms. Semmler stored
 20 the Digital Guardian report that she ran on July 23rd of
 21 '2021?
 22 A I'm not aware of a legal hold being put on
 23 there.
 24 Q If I can direct your attention to page 2 of

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 1 Exhibit 23, you'll see in the bottom half there's a
 2 title that says DLP files transfer data.
 3 A I do.
 4 Q It says DLP activity for Mr. Ridley can be
 5 reviewed accessing the link at the end of this report.
 6 The data export dash 2021 dash 07 dash 23 dash 11
 7 underscore 24 underscore 30 report contains a large
 8 amount of data. Do you see that language?
 9 A I do.
 10 Q And do you understand that that is the name of
 11 the Digital Guardian report that Ms. Semmler prepared on
 12 July 23rd, 2021?
 13 A The data export, yes, I do know. I see that.
 14 Q Do you know why the version of the Digital
 15 Guardian report that Ecolab produced in this litigation
 16 has a different file name than the original Digital
 17 Guardian report listed in Ms. Semmler's employee data
 18 review for Mr. Ridley as reflected in Exhibit 23?
 19 A I'm not aware of the naming convention that she
 20 used, why there would be a difference.
 21 Q What did Ecolab do to forensically preserve the
 22 original Digital Guardian report?
 23 A I think other than you know store it into
 24 OneDrive with limited access, I don't think anything

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 1 more than that. Again, that report can be generated at
 2 any time too. Well, sorry, you're right. There was
 3 nothing put onto that at the time.
 4 Q And when you say limited access, what do you
 5 mean?
 6 A Within -- as part of any investigation, only you
 7 know the analyst and perhaps legal or HR would have
 8 access to those.
 9 Q Would anyone who received the report at Exhibit
 10 23 have access through the link to the information in
 11 that file?
 12 A If it was shared with them, they would have
 13 access to it.
 14 Q All right. So as I understand your testimony,

24 reviewed those documents at that time, if they were

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available.

2 MS. LUND: Q Do you know whether Ecolab attempted
3 to locate the documents listed on the Digital Guardian
4 report in July of 2021?

5 A I know as part of that request there was --
6 that's where the review of the OneDrive -- Mr. Ridley's
7 OneDrive account came into play and upon review of the
8 OneDrive, whatever was there -- whatever was available
9 in OneDrive was produced -- was provided for review for
10 legal and HR.

11 Q So who in July of 2021 reviewed Mr. Ridley's
12 OneDrive?

13 A At that time I believe Theresa Corona and
14 perhaps Ms. Mahre from HR. But I do know Theresa Corona
15 was involved in that review.

16 Q And before these individuals began accessing
17 Mr. Ridley's OneDrive, what steps, if any, were taken to
18 forensically preserve it?

19 A The forensic preservation of that file -- well,
20 I guess there's two pieces. Once it was identified in
21 OneDrive, it was not -- it was moved out -- it wasn't --
22 it was held so it wouldn't be deleted my understanding.
23 That's how we preserved it, not being on legal hold.
24 But we did not have it set to be part of that

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 95
termination process. So the OneDrive was then preserved
2 at that time, not on legal hold, but it was available
3 for review. And that was in July, September timeframe.

4 Q Well, those are very different timeframes,
5 antithey, July of 2021 and September of 2021?

6 A I don't -- I mean, there are two different
7 months, sure, I guess if you want to say that.

8 Q Right, they're at least 60 days a part?

9 A Not necessarily, not if you're talking about the
10 middle of July timeframe.

11 Q Okay. Well, when specifically was the OneDrive
12 taken out of the deletion queue?

13 A In July of '21 as part of the access request.

14 Q Which access request?

15 A From HR as far as -- it all kind of -- you have
16 to understand it all flows together with an access
17 request is made.

18 Q So is it your testimony that when Ms. Mahre
19 submitted a request to Ms. Semmler to do the employee
20 data review, that at that time Mr. Ridley's OneDrive was
21 segregated in some way?

22 A It was not set to be deleted.

23 Q And who else had access to Mr. Ridley's OneDrive
24 in July of 2021?

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 96
2 A At that time I believe Theresa Corona was the
3 primary person with access.

3 Q And do you know whether Mr. Ridley's former
4 manager, Ms. Herrera, had access to his OneDrive in July

5 of 2021?
 6 A I am not aware of them having access -- her
 7 having access.

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8 Q So is it your testimony that every time an
 9 employee data review is requested, that that employee's
 10 OneDrive is taken out of the deletion queue?

11 MR. WINSMAN: Objection to form, misstates
 12 testimony. Go ahead.

13 THE WITNESS: For that period of time to give the
 14 manager or HR or legal time to review it. So that's
 15 that 30 day window as part of that termination process.

16 MS. LUND: Q So what you're saying is not that
 17 anything different was done with regard to Mr. Ridley's
 18 OneDrive because of this employee data review, request,
 19 but simply that the request occurred during the ordinary
 20 30 day window for review?

21 A That is my understanding, yes.

22 Q And at the end of that 30 day window was
 23 Mr. Ridley OneDrive put into the deletion queue?

24 A As part of that review, IT security was asked to

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1 ensure that it was not deleted.

2 Q And when was that request made to IT security?

3 A I believe that is at the end of July.

4 Q How is that request made?

5 A I'm not aware of exactly how that request was
 6 made, but we were told to make sure it was protected.

7 Q And who told you that?

8 A That was coming from Theresa Corona.

9 Q And what steps were taken to ensure that the
 10 OneDrive was protected?

11 A I'm not 100 percent on all technical aspects of
 12 it, but it was not marked for deletion or as far as that
 13 user -- that OneDrive was not part of the termination
 14 process to delete the files in the regular scheduled
 15 timeframe. So I'm not sure what the technical
 16 configuration is to mark it that way.

17 Q So other than not moving Mr. Ridley's OneDrive
 18 into the deletion queue, what steps, if any, were taken
 19 to preserve that data?

20 MR. WINSMAN: Objection to form, vague.

21 THE WITNESS: Other than assurance not to delete it,
 22 I'm not aware of any other controls.

23 MS. LUND: Q What steps were taken to recover any
 24 documents that were in the recycle bin for Mr. Ridley's

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1 OneDrive?

2 A As part of the review, we had some share --
 3 there was a technical session where the review was done
 4 and ensured that all the data that was in there, whether
 5 it was recycled or active, was saved.

6 Q And when was that technical session?

7 A I believe that was again as part of the access
 8 request, which would have been in July as far as
 9 granting access to legal and HR for review.

10 Q And who was involved in that technical session?

11 A There was Toua Vue that I had mentioned earlier,
 12 myself and Jack Anderson and -- Yes, that's it.

13 Q What records reflect that technical session?

14 A I think the only thing would have been maybe a
 15 calendar invite.

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16 Q And so it's your testimony that at some point in
 17 July of 2021 you and other individuals with whom you
 18 work had a technical session in which you looked at the
 19 recycle bin for Mr. Ridley's OneDrive, is that correct?

20 A At that time, yes, we reviewed the OneDrive
 21 account.

22 Q And what was in the recycle bin?

23 MR. WINSMAN: Objection to form, vague.

24 THE WITNESS: I don't -- I don't recall exactly

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 99
 2 what -- what was in there for what was recovered. But
 3 what we -- yes, I'm not 100 percent.

4 MS. LUND: Q But it's your testimony that in July
 5 of 2021 you recovered whatever was in Mr. Ridley's
 6 recycle bin at that time, correct?

7 A Whatever was part of Mr. Ridley's OneDrive was
 8 recovered.

9 Q And that would include anything that he had
 10 deleted within the last 93 days, correct?

11 A Based on Microsoft's policy, yes.

12 MS. LUND: We've been going about an hour. So why
 13 don't we go ahead and take a break for lunch.

14 MR. WINSMAN: Okay.

15 THE VIDEOGRAPHER: Off the record at 12:16.

16 (Lunch recess was taken.)

17 THE VIDEOGRAPHER: Back on the record at 1:15.

18 MS. LUND: Q So, Mr. Garza, before we broke for
 19 lunch we were talking about what Ecolab did in July of
 20 2021 to investigate Mr. Ridley's alleged
 21 misappropriation of Ecolab's documents.

22 Is there anything else that Ecolab did in July
 23 of 2021 that we haven't already discussed?

24 MR. WINSMAN: Just objection in terms of privilege
 25 to the extent that this is something that involved

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 100
 2 communications with counsel or things done at the
 3 instruction of counsel I'd instruct you not to answer.

4 THE WITNESS: Nothing else was done at that time.

5 MS. LUND: Q What did Ecolab do in August of 2021
 6 to investigate Mr. Ridley's alleged misappropriation of
 7 Ecolab's documents?

8 MR. WINSMAN: I'd make the same instruction and
 9 objection.

10 THE WITNESS: I'm not aware of anything -- anything
 11 additional was going on at that time.

12 MS. LUND: Q What steps did Ecolab take in August
 13 2021 to preserve Mr. Ridley's data?

14 A The only thing I'm aware of is that once access
 15 was granted to -- once OneDrive was identified, Ridley's
 16 OneDrive was identified and granted access to legal, we
 17 were asked not to delete it and nothing else was done at
 18 that time.

19 Q What steps did Ecolab take in August 2021 to
 20 preserve Mr. Ridley's devices?

21 A In August '21 I'm not aware of anything else.
 22 At that time his device had already been -- I believe
 23 re-allocated to the field, redeployed.

21 MR. WINSMAN: Objection.
 22 THE WITNESS: It seems they were reviewing it at
 23 this point.
 24 MS. LUND: Q And if you look at the e-mail chain,

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 2 Mr. Lammana doesn't write and say I already looked into
 3 this in July of '21, does he?

4 A Not on this e-mail chain.
 5 Q And would you expect him to have raised that
 6 issue if he had looked for it at the time?

7 MR. WINSMAN: Objection to form, calls for
 8 speculation.

9 THE WITNESS: Yes, he could have replied to the
 10 e-mail or had a conversation with Janice. But, yes,
 11 it's not on here.

12 MS. LUND: Q And if Mr. Lammana had looked into
 13 the issue in July of 2021 and confirmed that just days
 14 after Ms. Ridley returned his mobile drive insight was
 15 unable to find it, would legal need to be asking about
 16 that issue months later in January of 2022?

17 MR. WINSMAN: Objection to form, calls for
 18 speculation.

19 THE WITNESS: Probably not.

20 MS. LUND: Q Okay. And then if you can -- if I
 21 can direct your attention to the first page, on the
 22 middle of the page you will see there's a second e-mail
 23 down a January 19th, 2022 e-mail from Ms. Coulter to the
 24 same group of individuals. She writes, morning all,
 someone from legal just reached out asking about the

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 116
 2 hard drive again. Did we find it or are we still
 3 looking for it. Do you see that?

4 A I do see that.
 5 Q And does that indicate to you that at least as
 6 of January 19th, 2022 legal did not know the status of
 7 that mobile drive?

8 A They sent this e-mail. It seemed they were
 9 still looking for it.

10 Q Do you know why they didn't look for it before
 11 January of 2022?

12 MR. WINSMAN: Objection to form, assumes facts not
 13 in evidence.

14 THE WITNESS: I have no idea.

15 MS. LUND: Q Are you aware of any evidence that
 16 legal did look for this mobile drive before January of
 17 2022?

18 A The primary interactions with legal was around
 19 OneDrive and the data.

20 Q Are you aware of any effort by Ecolab to reach
 21 out to insight at any time before January 2022 to locate
 22 the mobile drive that was returned by Mr. Ridley?

23 A I don't have any communications prior to that.

24 Q Is that something that you have looked for?

A It was not brought to my attention in

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 117
 preparation for this.

2 Q Do you know whether that's something that Ecolab
 3 has looked for?
 4 A I have not seen any communications around that.
 5 I'm not sure.
 6 Q But there are a number of Ecolab employees
 7 copied on these e-mail chains, correct?
 8 A On this exhibit, yes.
 9 Q Okay. On --
 10 A 109.
 11 Q On Exhibit 108 and 109, both have multiple
 12 Ecolab employees copied, correct?
 13 A They're Ecolab. It's on both of those, yes.
 14 Q And you previously testified that the Veritas
 15 system keeps a copy of every e-mail that is sent or
 16 received by an Ecolab employee back through 2011,
 17 correct?
 18 A Veritas has been in place since then, yes.
 19 Q So if there were communications between any
 20 Ecolab employee and an insight employee regarding
 21 Mr. Ridley's mobile drive or other devices that he had
 22 returned, those would be locatable by Ecolab, correct?
 23 A All those communications would be in an archive,
 24 in Ecolab's archive.

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1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 118
 2 Q And that archive is searchable?
 3 A It is searchable.
 4 Q So in September of 2021 Ecolab's inhouse legal
 5 department still had access to Mr. Ridley's OneDrive,
 correct?
 6 A They still had access to the OneDrive, yes.
 7 Q What restrictions, if any, were on -- were in
 8 place with regard to that access to prevent data from
 9 being altered by that access?
 10 A I'm not aware of any special actions taken.
 11 Q Did Ecolab take any steps in September of 2021
 12 to locate the documents that are identified on the
 13 Digital Guardian report as having been copied or
 14 transferred by Mr. Ridley?
 15 A I'm not aware of any activity like that.
 16 Q Did Ecolab take any steps in September 2021 to
 17 preserve the documents or data of other custodians who
 18 would have information relevant to the alleged
 19 misappropriation by Mr. Ridley?
 20 A I'm not aware of any other custodians or
 21 requests.
 22 Q And Ecolab did not contact Mr. Ridley in
 23 September 2021 regarding the alleged misappropriation?
 24 A I would not have been involved in any

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 119
 2 communication with Mr. Ridley at that time.
 3 Q And you don't know whether Ecolab had any such
 4 communications?
 5 A No one explained to us that there was
 6 communication going on.
 7 Q And you don't know why Ecolab made the decision
 8 not to reach out to Mr. Ridley to find out his
 9 explanation for the information that was shown on the
 10 Digital Guardian report?
 11 A I have no information to that.

10 2021 about the alleged misappropriation, correct?
11 A Not that I'm aware of.
12 Q And Ecolab did not contact ChemTreat in December
13 2021 about Mr. Ridley's alleged misappropriation,
14 correct?
15 A Correct.
16 Q Is there anything else that Ecolab did in
17 December 2021 to investigate Mr. Ridley's alleged
18 misappropriation of Ecolab's documents that we haven't
19 already discussed?
20 MR. WINSMAN: Objection, vague. Privilege
21 instruction for the witness.
22 THE WITNESS: Nothing more than we've already
23 discussed.
24 MS. LUND: Q And are you aware as the corporate

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2 representative of Ecolab of any communications that
3 Ecolab's inhouse counsel had with any employees of
4 Ecolab in connection with the investigation into
5 Mr. Ridley's alleged misappropriation of Ecolab's
6 documents that occurred in December of 2021?
7 A I'm not aware of any communications.
8 Q What did Ecolab do in January 2022 to
9 investigate Mr. Ridley's alleged misappropriation of
10 Ecolab's documents?
11 MR. WINSMAN: Objection, vague, privileged, and
12 instruct the witness not to reveal privileged
13 communications.
14 THE WITNESS: I believe in January was when we first
15 began working with Mr. Lieb, Larry Lieb, and to get him
16 access into OneDrive. And at that time that's when he
17 was going to take the forensic image for his own review.
18 And I believe at that time, in January, I believe it was
19 like January 25th when was the legal hold was put on
Mr. Ridley's -- was created.
20 MS. LUND: Q So Mr. Ridley resigned from Ecolab on
21 July 1st, 2021 and at the time informed Ecolab that he
22 was going to work for a competitor, ChemTreat, correct?
23 A That's correct.
24 Q And on July 18th, 2021 Theresa Corona, Ecolab's

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 128
2 inhouse counsel -- well, I guess I should say on or
3 before July 18th, 2021, Theresa Corona, Ecolab's inhouse
4 counsel, requested that Kristin Mahre request an
5 employee data review of Mr. Ridley's digital activity,
correct?
6 A That's correct.
7 Q And Ms. Mahre made that request on July 18th of
8 2021, correct?
9 A Correct.
10 Q And on July 23rd, 2021 Ms. Semmler transmitted
11 the results of that review of Mr. Ridley's digital
12 activity, including the Digital Guardian report,
13 correct?
14 A That would have been the Digital Guardian
15 report, yes.
16 Q And that report went to Kristin Mahre and
17 Theresa Corona, correct?
18 A That's my understanding.

7 A Uh-huh, yes.
 8 Q And can you explain again what the operation
 9 type shows?
 10 A Yes, that would show the action that was taken
 11 for the file. So file copy means to take a copy from --
 12 you know from one destination, make a copy -- from one
 13 source and make a copy to another destination.
 14 Q And you'll see that here all of the operation
 15 types that show up in Mr. Ridley's Digital Guardian
 16 report have been expanded. Do you see that?
 17 A Uh-huh. I do.
 18 Q And can you confirm that delete does not appear
 19 among the operation type?
 20 A I can.
 21 Q Okay. And that's something where if deletion
 22 had occurred, that would show, correct?
 23 MR. WINSMAN: Objection, misstates testimony.
 24 THE WITNESS: If that action was taken, the

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 1 operation type is where it would be shown.
 2 MS. LUND: Q Right. So if any deletion had
 3 occurred, it would show up in operation type, correct?
 4 MR. WINSMAN: Objection to form, misstates
 5 testimony.
 6 THE WITNESS: If that -- if a deletion occurred, it
 7 would be in operation type.
 8 MS. LUND: Q And you'll see one of the types is
 9 listed as file moved, correct?
 10 A That's correct.
 11 Q So let's go ahead and filter for file moved.
 12 And let's see you might need to make the screen -- I
 13 can't see. We should see how many results there are for
 14 this.
 15 A There's 1400.
 16 Q It's not showing up on my screen. That might be
 17 a problem with me.
 18 So the total number you said is 1400?
 19 A One report I had looked at it had that number.
 20 I don't know. I can't see -- I can't see it here
 21 though. Or is that 1,466?
 22 Q Oh, I see. Can you put the cursor back then? I
 23 don't know if that was you or me. Is there a way to
 24 minimize it on your screen so we can -- all right. Do

ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 149
 1 you see that it shows that 1,466 of the 94,489 records
 2 reflect a file move?
 3 A That's correct.
 4 Q Okay. So only those records are the records
 5 that were actually moved from one location to another,
 6 correct?
 7 A That's what the report shows, yes.
 8 Q Okay. So no deletion and 1,466 files out of
 9 94,000 plus were moved?
 10 MR. WINSMAN: Objection, misstates testimony.
 11 THE WITNESS: But in a file move the -- where the
 12 file was moved from, that source would no longer have
 13 the file once it was done.
 14 MS. LUND: Q So 1,466 of the records of 94,000
 15 represent documents that were moved rather than simply

23 A Okay. Okay.
 24 Q So both Exhibit 79 and Exhibit 110 were created

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1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 166
 2 by jack Anderson, is that correct?
 3 A Yes, that's correct.
 4 Q And am I recalling correctly that Mr. Anderson
 5 works in your department?
 6 A He does.
 7 Q Okay. Do you know why Mr. Anderson ran these
 8 reports?
 9 A Just assisting legal with the request.
 10 Q Are these the kinds of reports that your
 11 department regularly runs?
 12 A If we're requested for hardware, sure.
 13 Q If I can direct your attention to Exhibit 110,
 14 if you could flip to page 4 please.
 15 A Okay.
 16 Q You will see at the bottom it reflects that on
 17 July 12th of 2021 Shreya Patel received at the insight
 18 depot from Mr. Ridley a laptop with the serial number 5
 19 CG 84132 TP as well as a USBC doc G4, a 65 watt charger
 20 and a mobile drive. Do you see that?
 21 A I do see that.
 22 Q And this is the same information that was
 23 reflected in Exhibits 108 and 109 that we looked at
 24 previously, correct?
 A Correct.

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 167
 2 Q And you will see that those devices were not
 3 moved to inventory until August 5th of 2021, correct?
 4 It's the line immediately above.
 5 A The August 6th line there in.
 6 Q Yes, you'll see it says --
 7 A Yes, I see it. Thank you.
 8 Q So is it fair to say that if Ecolab had issued a
 9 legal hold on July 1st, 2021, when Mr. Ridley informed
 10 Ecolab he was departing to work for ChemTreat, a
 11 competitor, that this laptop and the additional
 12 accessories that Mr. Ridley returned on July 12th, 2021
 13 could have been set aside and preserved?
 14 MR. WINSMAN: Objection, calls for speculation,
 15 assumes facts not in evidence.
 16 THE WITNESS: Yes, if a legal hold would have been
 17 issued it would have been retained.
 18 MS. LUND: Q And insight as a matter of course
 19 preserves all devices it receives for a two week period
 20 after it receives them, correct?
 21 A That's correct.
 22 Q So is it fair to say that if Ecolab had issued a
 23 legal hold on July 18th, 2021 when it requested the
 24 employee data review of Mr. Ridley's data, that the
 laptop returned by Mr. Ridley along with the various

1 ROUGH DRAFT - ROUGH DRAFT - ROUGH DRAFT 168
 2 accessories he returned, including the mobile drive,
 3 could have been preserved?
 4 MR. WINSMAN: Object to the form, calls for

4 speculation, assumes facts not in evidence.

5 THE WITNESS: Had a legal hold been in place, then
6 we would have preserved it.

7 MS. LUND: Q And is it fair to say that if Ecolab
8 had issued a legal hold on July 23rd, 2021 when the
9 results of Ms. Semmler's employee data review, including
10 the Digital Guardian report, were issued, that, again,
11 Mr. Ridley's laptop and the mobile drive that he
12 returned could have been preserved and the data on them
13 captured?

14 MR. WINSMAN: Objection, assumes facts not in
15 evidence, calls for speculation.

16 THE WITNESS: Had -- if they had enough time to
17 identify that and determine that, then yes.

18 MS. LUND: Q Well, in fact the laptop wasn't moved
19 into inventory until August 5th of 2021, correct?

20 A That's what the record shows. That's what this
21 shows, yes.

22 Q So there was two weeks after the DLP Digital
23 Guardian report was prepared when a legal hold could
24 have been issued and the data on that laptop could have

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1 been preserved, correct?

2 MR. WINSMAN: Objection to form, calls for
3 speculation, assumes facts not in evidence.

4 THE WITNESS: If a legal hold would have been
5 issued, yes, it could have been retained.

6 MS. LUND: Q And would you agree that it is more
7 likely that the mobile drive returned by Mr. Ridley
8 could have been preserved and the data on it reviewed if
9 Ecolab had issued a legal hold in July of 2021 rather
10 than waiting until January of 2022 to look for that
11 device?

12 MR. WINSMAN: Objection to form, assumes facts not
13 in evidence, calls for speculation.

14 THE WITNESS: Yes. Yes, sorry.

15 MS. LUND: Why don't we take a short break.

16 THE VIDEOGRAPHER: Off the record at 2:56.

17 (Recess was taken.)

18 THE VIDEOGRAPHER: Back on the record at 3:12.

19 MS. LUND: Mr. Garza, I have no further questions at
20 this time. I pass the witness.

21 MR. POPE: Mr. Garza, I don't have any additional
22 questions for you.

23 MR. WINSMAN: All right. You know what? Can we go
24 off the record then for another break and come back?

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1 THE VIDEOGRAPHER: Off the record at 3:12.

2 (Recess was taken.)

3 THE VIDEOGRAPHER: Back on the record at 3:23.

4 MR. WINSMAN: All right. And I have nothing for the
5 witness.

6 MS. LUND: Mr. Garza, thank you for your time
7 witness within thank you. Safe travels.

8 MR. WINSMAN: Thank you.

9 THE VIDEOGRAPHER: And we're off the record at 3:23.

10

11

12